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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 ROGER D SANDERS,

11 Plaintiff,

12 v.

13 MARK NELSON et al.,

14 Defendants.

CASE NO. C11-5898-BHS-JRC

ORDER DENYING PLAINTIFF'S  
MOTION FOR APPOINTMENT OF  
COUNSEL

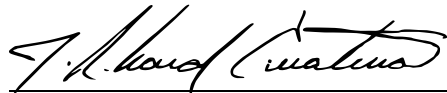
15 This 42 U.S.C. § 1983 civil rights action has been referred to the undersigned Magistrate  
16 Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judge Rules  
17 MJR 1, MJR 3, and MJR 4. Plaintiff has filed a motion for appointment of counsel (ECF No.  
18 10).

19 There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.  
20 Although the court can request counsel to represent a party, 28 U.S.C. § 1915(e) (1), the court  
21 may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th  
22 Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616  
23 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both  
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1 the likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro  
2 se in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

3 Plaintiff has demonstrated an adequate ability to articulate his claims pro se. While  
4 plaintiff argues the merits of his action, it is early in the process and the Court does not yet have  
5 sufficient facts to conclude that plaintiff has a reasonable likelihood of success. Therefore, the  
6 Court reserves judgment on that issue. The motion is DENIED.

7 DATED this 9<sup>th</sup> day of January, 2012.

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11 J. Richard Creatura  
12 United States Magistrate Judge  
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